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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**8 UNITED STATES FIDELITY AND
GUARANTY COMPANY, et al.,** No. C-03-5376 SBA (EMC)

Plaintiffs,

ORDER RE SETTLEMENT

V.

THE SCOTT COMPANIES, INC., *et al.*,

Defendants.

ORDER RE SETTLEMENT

13 _____ /

15 The parties have submitted letters to the Court seeking resolution of a dispute in the drafting
16 of settlement papers. The dispute concerns the length of time within which St. Paul must pursue its
17 rights under the Final Settlement Agreement against Individual Indemnitors in the event St. Paul
18 believes it has discovered an unlisted or undervalued asset. Pursuant to the settlement placed on the
19 record, the parties have stipulated that this Court has final and binding authority to resolve disputes
20 such as the instant one. Having reviewed the parties' letters and good cause appearing therefor, the
21 Court rules as follows.

22 As to undervalued assets, St. Paul must file an enforcement proceeding within one year of
23 the date of the Effective Date of the Final Settlement Agreement. Given the disclosure requirements
24 contained in the Final Settlement Agreement, the one year limitations period afford ample time to
25 take action as to disclosed but undervalued assets.

As to unlisted assets, St. Paul shall have three years within which to file an enforcement proceeding. By definition, unlisted assets, if any, are likely to require more investigation and time to discover than undervaluation of known assets. Three years reflects a fair balance between that need

1 and the Individual Indemnitor's need for finality. *Cf.* C.C.P. Section 338(d) (three year statute of
2 limitations for fraud).

3 The parties shall forthwith complete the Final Settlement Agreement and have it executed.
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5 IT IS SO ORDERED.
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7 Dated: August 1, 2005


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9 EDWARD M. CHEN
United States Magistrate Judge